

Planning & Zoning Commission Meeting  
Minutes of August 1, 2012  
1st Floor North Conference Room - City Hall

**Present:** Chairman Mark C. Brooks, Vice-Chairman Nathaniel Cannady, Kristy Carter, Jeremy Goldstein, Holly P. Shriner and Paul Smith

**Absent:** Ms. Jane Gianvito Mathews

**Pre-Meeting - 4:30 p.m.**

At the pre-meeting the Commissioner's discussed the Plasticard application that had been continued from the last meeting. They also were informed that the access cards for the lower parking lot being issued to all members of Commissions had not yet arrived. The planned visit of the Chair of the Board of Adjustment was postponed due to a scheduling conflict. The meeting concluded with a few questions about the lighting ordinance changes.

**Regular Meeting - 5:00 p.m.**

Chairman Brooks called the meeting to order at 5:00 p.m. and informed the audience of the public hearing process.

**Administrative**

- ? Ms. Shriner moved to approve the minutes of the July 19, 2012, mid-meeting with one typographical error. This motion was seconded by Vice-Chairman Cannady and carried unanimously by a 6-0 vote.

**Agenda Items**

- (1) **Consideration of the initial zoning of recently annexed property in the UNC-Asheville Area to Institutional District and RS-4 Residential Single-Family Medium Density District.**

**Institutional – PINs 9639-87-7590, 9639-87-7617, 9639-88-7836, 9639-88-8905, 9639-89-9028, 9639-89-9257, 9639-89-9497, 9639-97-1306, 9639-98-0232, 9639-98-1906, 9639-99-0098, 9639-99-0689, 9639-99-1867, 9639-99-2065, 9639-99-2133, 9639-99-2219, 9639-99-2918, 9639-99-3773, 9639-99-7385 (portion), 9730-91-8121, 9740-00-3127, 9740-00-7662 (portion), and 9740-10-1820 (portion) in the Buncombe County tax records**

**RS-4 – PINs 9649-09-5686 and 9649-09-6434 (portion) in the Buncombe County tax records. Planner coordinating review – Blake Esselstyn**

Urban Planner Blake Esselstyn oriented the Commissioners to the site location and said that as a result of NCGA Session Law 2012-119, roughly 119 acres of the UNC-Asheville campus were brought into the City of Asheville jurisdiction effective June 30. As a result the City is required to assign zoning districts to these areas.

Just as the bulk of the University property that was already in the City's jurisdiction is under Institutional zoning, the staff proposal is for the bulk of the newly annexed University property to be zoned Institutional. The Unified Development Ordinance states that "The Institutional District is established to reserve land for the development of major educational facilities, major medical facilities and other complementary and supporting uses such as health related developments, office developments, and public services. Development standards for uses

in this district are established to minimize conflict with adjacent land uses.” This district represents the obvious choice for the contiguous campus parcels.

There are one and a half parcels, however, representing roughly half an acre, for which staff is recommending RS4 (Residential Single-Family Medium Density) zoning. These parcels, each with a building constructed as a residence, both front on Hyannis Drive. The portion of Hyannis Drive that had already been in City Limits has been zoned RS4 for 15 years, including half of one of the parcels under consideration for this initial zoning. The dominant use on the street is single-family residential, though there is a condominium development at the end of the street, in the Buncombe County jurisdiction. At one time, there was a day care business, but that appears to no longer be in operation. The University has owned the two properties on Hyannis since the mid-nineties, and has at times used the residential-style buildings for offices for faculty or for operations such as the Interfaith Campus Ministry.

While staff recognizes the University’s interest in being able to use these properties for non-residential purposes, and also the University’s past record of having been able to do so without disrupting the neighborhood, concerns remain that an (unconditional) INST zoning designation could lead to incompatible development there, especially if a third party were to acquire the property. Under the proposed RS4 zoning, continuation of existing non-residential uses, provided they did not switch to a higher impact, could be permitted as grandfathered “existing non-conformities.”

Further, were these one and a half parcels to be zoned Institutional, staff feels that the isolated geometry could legitimately be challenged as spot zoning. Staff is of the opinion, however, that a conditional zoning would be appropriate for these parcels, and that such a petition from the University would be likely to receive staff support.

Also on the eastern edge of the subject area, but north of the Hyannis parcels, are two portions of parcels between Barnard Avenue and Valle Vista Drive. Portions of these parcels were already in the City Limits and were zoned RS4. The proposed initial zoning for the currently unzoned areas here is Institutional, which will result in a split-zoned situation for these two parcels. If the initial zoning is approved, however, staff intends to proceed with a rezoning of the RS4 slivers, which will rectify the split zoned situation. (The rezoning has to be undertaken separately from the initial zoning.)

The University has expressed a preference that all the subject area be zoned Institutional, including the Hyannis Drive parcels, and a letter outlining the University’s request has been provided to the Commissioners. Staff feels, however, that the proposed RS4 zoning on Hyannis Drive is more consistent with accepted zoning conventions and legal requirements, and that the University’s use of those properties can be accommodated as existing non-conformities, or through conditional zoning, if necessary. In addition, in the future, if the University were to acquire a larger fraction of the properties on Hyannis with plans for expansion, staff would likely support a rezoning to Institutional.

Staff has received 11 phone calls from neighboring property owners, all seeking additional information, with none expressing opposition to the proposed zoning.

Based on the above findings and the analysis provided in the report, staff finds this action to be reasonable and consistent with the Comprehensive Plan and other adopted plans.

Pro:

- ? Zones property in consideration of the surrounding zoning and land use and the City's Comprehensive Plan.

Con:

? Would create a split-zoned situation on two parcels (which staff intends to later rectify).

Staff recommends approval of this initial rezoning.

When Mr. Smith asked why the legislators would leave two small pieces of Woodfin property in the City, Mr. Esselstyn said his understanding was the preference of the legislature was not to change the jurisdiction in a way that would increase the property tax rate for those residents.

At 5:11 p.m., Chairman Brooks opened the public hearing.

In response to Mr. Bob Grasso regarding the proposed zoning for Chestnut Ridge, Assistant Planning & Development Director Shannon Tuch said that if the University chooses to develop the property, the property would be subject to the City's steep slope ordinance.

At 5:14 p.m., Chairman Brooks closed the public hearing.

Based on the above findings and the analysis provided in the report, Mr. Goldstein moved to recommend approval to initially zone recently annexed property in the UNC-Asheville area to Institutional District and RS-4 Residential Single-Family Medium Density District. This motion was seconded by Ms. Carter and carried unanimously by a 6-0 vote.

**(2) Review of Level II site plan for the project identified as Plasticard-Locktech International-Expansion located at 605 Sweeten Creek Industrial Park. The project proposes to expand the existing 63,652 sq foot facility by an additional 37,325 square feet. The total square footage will be 99,977. The property owner is Plasticard-Locktech International/Mark Goldberg and the contact is Todd Miller. The property is identified in the Buncombe County Tax records as PIN 9657-41-1845.**

Due to a conflict of interest, Chairman Brooks moved to recuse himself. This motion was seconded by Vice-Chairman Cannady and carried unanimously on a 5-0 vote. At this time, Chairman Brooks turned the gavel over the Vice-Chairman Cannady to preside over this portion of the meeting and left the room.

This public hearing was continued from July 19, 2012, in order to clear up some square footage discrepancies,

Urban Planner Jessica Bernstein oriented the Commissioners to the site location and said the applicant, Todd Miller, is requesting review of site plans to expand and renovate an existing facility. This project is considered as a Level II review pursuant to Section 7-5-9(b) of the UDO which designates the process for buildings with square footage between 35,000 – 100,000.

This project is considered a Level II review and according to Section 7-5-9(b) of the UDO, the Planning & Zoning Commission shall review Level II projects-conceptual site plans for compliance with applicable standards and regulations.

The project site consists of a 6.15 acre parcel located at 605 Sweeten Creek Industrial Parkway. The site is zoned Industrial and surrounding properties to the west and south are zoned RS-8 with Industrial zoning immediately to the north and east. This site at the end of the Sweeten Creek Industrial Park is currently the location of Plasticard Locktech International.

*Proposal:* There is an existing 63,652 square foot structure on the site and the proposal is for a 37,325 square foot addition onto the western end of the main building with an expansion of the parking area. The resulting total square footage will be 99,977 square feet. The existing single-story structure is 24' 7" tall and the addition is two stories (33' 10" in height).

*Uses:* Uses in the facility include offices, storage, shipping & inventory and manufacturing spaces.

*Access:* Access is (and will remain) from the existing driveway at the northern end of the site via Sweeten Creek Industrial Parkway from Sweeten Creek Road. Although the parcel does have frontage along West Chapel Road, no access is proposed along this side.

*Parking:* The existing 137-space parking area is located at the northern end of the site and the expansion area is along the western portion of the parcel and a small amount at the southern edge of the new addition. A range between 113 and 227 spaces is shown as required for this use with a total of 227 spaces proposed (90 new spaces), including 7 handicapped accessible spaces and 12 bike spaces. A portion of the parking and vehicular use area encroaches into the 50' side setback; however, this is permissible in the Industrial district.

*Landscaping & Open Space:* Compliance is required in the area of disturbance and includes street trees along West Chapel, building impact landscaping throughout the site, parking lot landscaping and a property line buffer/street buffer along West Chapel Road. The site has an existing property line buffer along the western edge and some existing parking lot landscaping from the previous expansion back in 2007. Open space is not required in the Industrial zoning district.

The project was reviewed by the Technical Review Committee on June 18, 2012, and approved with conditions. This proposal either meets all technical standards as required by the City or appears to have the ability to comply through minor revisions and clarifications, with variances and modifications receiving review by the appropriate boards and commissions. Based on this, staff recommends approval of the site plan and proposed development subject to the conditions outlined by the Technical Review Committee.

Ms. Bernstein explained that this project is just under 100,000 sq ft and that is why it is being reviewed as a Level II project. If the applicant wishes to use any additional square footage in the building (over 100,000 sq ft), he would need to come back for a Level III conditional use permit review, which would consist of a different application, and a public hearing not only before the Planning & Zoning Commission but also City Council. She explained that if additional square footage is needed in the future, the footprint of the building on the site plan would probably not change, because this addition will have two stories.

Mr. Bob Grasso, land planner on the project, said that they have already addressed all of the Planning comments in the Technical Review Report and have no concerns about the other conditions. Using a drawing, he clarified that if they need to use additional square footage they would make an application for a Level III review and extend the second floor inside. He explained that any additional space will be within the building.

Vice-Chairman Cannady opened the public hearing at 5:30 p.m., and when no one spoke, he closed it at 5:30 p.m.

Based on the above findings and the analysis provided in the report, Ms. Shriner moved to recommend approval of Level II site plan for the project identified as Plasticard-Locktech International-Expansion located at 605 Sweeten Creek Industrial Park to expand the existing 63,652 sq foot facility by an additional 37,325 sq feet, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with cut-off fixtures or full cut-off fixtures and directed away from adjoining properties and streets. A detailed lighting plan will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation

on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (5) This project will undergo final review by the TRC prior to issuance of any required permits. This motion was seconded by Ms. Carter and carried unanimously by a 5-0 vote (with Chairman Brooks being recused).

Chairman Brooks re-entered the meeting room. Vice-Chairman Cannady moved for Chairman Brooks to preside over the remainder of the meeting. This motion was seconded by Mr. Smith and carried unanimously on a 5-0 vote. At this time, Vice-Chairman Cannady turned the gavel over the Chairman Brooks to preside over the remainder of the meeting.

**(3) Ordinance amending Chapter 7 of the Code of Ordinances to update standards for outdoor lighting.**

Assistant Director of Planning & Development Shannon Tuch said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to update standards for outdoor lighting.

The City of Asheville has had standards regulating outdoor lighting since 1998. More recently in 2008, there was a comprehensive update to those standards and as part of this update, the standards were moved from the ***Standards and Specifications Manual*** to the UDO where it would be easier for the public to find and reference the necessary standard. This also allowed the various technical departments to share in the review and enforcement of these standards where, at present, outdoor lighting is reviewed by the Department of Public Works (street lights), Building Safety (building lights) and Planning and Development (site lighting).

In 2011, the Department of Public Works in support of the sustainability Master Plan, announced a multi-year plan to phase in new LED street lights. In order to support this change, a wording amendment would be required to ensure that all new privately installed street lights would match the city's new LED street lighting standards. Since an amendment was required, staff took the opportunity to review all the current standards and see if there were other areas where updates, either for energy efficiency or for other reasons, were warranted and this effort was supported by the Sustainability Advisory Committee on Energy and the Environment (SACEE). A small work group composed primarily of staff from the three technical departments responsible for administering the standards, along with various outside stakeholders that included a neighborhood representative, Progress Energy staff, and the manufacturing industry representatives communicated through meetings and e-mails in order to develop accurate and efficient standards. With a couple exceptions (noted below), the changes are not generally considered substantive and are primarily clarifications and re-organization designed to clarify and expand options for developers and to improve the review process.

This amendment was reviewed by the SACEE Committee at their May 16, 2012, meeting where it was supported and recommended to the Planning & Zoning Commission for consideration.

At the June 6, 2012, Planning & Zoning Commission meeting consideration of the amendment was continued to allow staff time to meet with industry experts to modify the language to better reflect accurate ratings. The meeting was very productive and there was consensus on all issues. However, when the draft was being drawn up, there was one standard that she didn't recall discussing in the meeting. When she circulated that standard, there was no consensus on that one issue.

This amendment was also shared and discussed at the regular Council of Independent Business Owners (CIBO) meeting that was held on July 13, 2012, where several questions regarding the extent of the changes were discussed.

This proposal primarily supports the SOP goal for “Green & Sustainable” and “Safe” with its promotion of energy efficient light fixtures and other standards that better control uplighting, glare, night blindness, and shadows.

Pros:

- ? Clarifies standards and options for developers and property owners.
- ? Encourages the use of energy efficient fixtures.
- ? Limits or discourages unsafe glare.

Con:

- ? Will require the removal and/or replacement of certain non-conforming fixtures.

There is no direct fiscal impact on the ordinance amendment itself. The switch to LED streetlights will have a long-term fiscal benefit to the City through reduced energy costs.

She then reviewed in detail the primary changes which are summarized below. She noted that the ordinance is reorganized separating building lighting from site lighting from street lighting, and also noted that there are minor language changes that do not change the standards. She emphasized that LED lights are optional everywhere (except streets). The purpose of the standard is if you use LED lights, you must meet the standards. The standards are designed to match their non-LED counterpart.

1. **New definitions** section (b) for:
  - ? LED Backlight, Uplight and Glare (BUG) rating system
  - ? Low luminosity lighting – 1,000 lumens or less
  - ? Low level decorative lighting – 60 lumens or less
  - ? Very low luminosity lighting – 15 lumens or less
2. All new **floodlights** are now banned in the CoA as noted in the definitions. There was some deliberation at the workgroup and SACEE meeting on whether to prohibit any additional floodlights or to go a step further and prohibit and amortize flood lights (similar to unshielded dusk-to-dawn lights). The recommendation is to prohibit and amortize leased utility lights which are reflected in the draft ordinance. This would grandfather existing privately owned lights.
3. There is now an exception in section (h)(4) for **wall mounted fixtures** that use low luminosity lighting (1,000 lumens or less), provided a translucent lens is used that covers the light source. This provides greater a greater range of fixture options.
4. **Building accent luminous tubes** (LED, neon, fluorescent or other similar technology) in section (g)(8) are now required to be shielded, and the exception for trademark structure is now removed.
5. New **LED standards** were incorporated in section (h)(8).
  - ? 4,300 Kelvin degree maximum CCT (correlated color temperature) rating to minimize glare.
  - ? Maximum lumens will be 6,000 in residential districts and 15,000 in commercial districts.
  - ? Street light BUG ratings shall be no lower (1-0-1) in residential districts and higher (x-1-1) in commercial districts.
6. **Lighting of alleys** in section (i)(4)(a)(vi) must now use full cutoff design.

7. **Street lighting** in section (i)(4)(c) sets **lumens** to match LED standards: no greater than 6,000 in residential neighborhoods and no greater than 15,000 in commercial districts. Exceptions are included at intersections where higher light levels are needed.
8. **All street lighting** [Section (i)(4)(f)] **shall be full cutoff** fixtures with only one exception: historic districts. This matches the City's new LED standard fixture.
9. **Street lighting in historic districts** [Section (i)(4)(f)(ii)] may no longer use "non-cutoff" fixtures, but cutoff and semi-cutoff fixtures are still allowed.
10. Lighting of an **angled building surface** (i.e., roof pitch) is now prohibited in section (o)(7).

She then explained some exemptions.

She said the BUG rating for one particular lighting fixture is still being debated and discussed, and a couple of other things that may not change but staff wants to study them to see if there is a better standard. Therefore, staff recommended the Commission approve the proposed wording amendment with the recommendation that staff continue to work with other staff, SACEE and the stakeholders on some of these unresolved issues or standards that staff warrants some additional research consideration. She also hoped the Commission would also support a little latitude that if staff looks at some of these other lesser issues, that no one is arguing about, that if they find there is a better standard that the Commission would support them proposing that as well.

She realized that this is unusual for the Commission, but part of the reason that they think this may be acceptable is because these standards are complicated and there is really only one standard (post mounted decorative LED lights) that has been debated. The others are just staff exploring whether or not there is a better option. Staff hopes to be able to build consensus on the post mounted decorative LED lights; but if that doesn't happen, then staff would pick the recommendation they and SACEE felt was the best and explain the minority opinions at the City Council meeting. If the Commission is not comfortable with staff's recommendation, staff will go back and do this work now and bring the matter back before the Commission at their next meeting.

Throughout discussion, Ms. Tuch responded to various questions/comments from the Commission, some being, but are not limited to: what is the difference between floodlights and flood lamps; what are some examples of post mounted decorative lights and what is being debated about the lights; is there any change to sports lighting; how will the 5-year leasing of Progress Energy floodlights be phased out; is there any change to parking lot lights; what is the difference between parking lot lights and floodlights; confirmation that variances are available; does Progress Energy and Duke have the same philosophy; has staff approached the N.C. Dept of Transportation about their lights; clarification to the con that staff was referring to floodlights when they said the ordinance will require the removal and/or replacement of certain non-conforming fixtures; will this prohibit people from using village lights until another light cut-off is developed; is SACEE a City Council appointed board and how many members are on it; and confirmation that LED lights are probably more expensive (but cheaper to operate) but the prices will get cheaper as it gets more competitive and more acceptable.

Mr. Smith was concerned that this ordinance is very complicated and hoped that staff is going to be understanding to those that must comply and open to amendments. Ms. Tuch said there are lots of changes, but the impact is not huge and the impact is for the better. One of the reasons why we use advisory committees for review, is that if there is not an expert on the particular committee, they know who to ask. They have also relied on other people – industry manufacturers, Progress Energy and other stakeholders to make sure staff was on the right path.

At 6:17 p.m., Chairman Brooks opened the public hearing.

Mr. Mike Plemmons, representing the Council of Independent Business Owners, said they didn't oppose the ordinance; however, he was concerned that an internal board crafted the ordinance with no input from the local business community. He said that engineers and/or architects who will have to adhere to the ordinance were not involved in the process.

At 6:18 p.m., Chairman Brooks closed the public hearing.

In response to Mr. Plemmons, Ms. Tuch said that staff uses a big stakeholder group when they do a comprehensive update. Since this was really just felt to be more of an update and clarification they did not convene a big group. In addition, it is difficult to find people who are knowledgeable enough on this subject to get that kind of participation. Chairman Brooks noted that he queried a mechanical/plumbing contractor and he explained it the way Ms. Tuch had in that it is just a broadening of the standards and covering new technology.

Ms. Shriner was concerned that there was a neighborhood representative and not a business owner invited to participate in the crafting of the ordinance. Ms. Tuch said it was not a neighborhood representative but someone who was knowledgeable in lighting. SACEE recommended that Planning staff talk to him because they expressed concern about understanding some of the language.

Based on the above findings and the analysis provided in the report, Mr. Goldstein moved to recommend approval of the proposed wording amendment and that staff continue to work with other staff, SACEE and the stakeholders on some of these unresolved issues or standards that staff warrants some additional research consideration.

Ms. Carter and Mr. Smith felt it was the Commission's responsibility to review the ordinance in its entirety and felt the entire wording amendment should come back to the Planning & Zoning Commission after the unresolved issues or standards are revised.

Because Ms. Tuch said that there will be changes, Mr. Goldstein withdrew his motion.

In response to Mr. Smith, Planning & Development Director Judy Daniel said that staff would try to arrange some members of SACEE attend the Commissioner's next meeting.

Mr. Goldstein moved to continue this wording amendment to the September 5, 2012, meeting. This motion was seconded by Ms. Carter and carried unanimously on a 6-0 vote.

### **Other Business**

Chairman Brooks announced the regular meeting on September 5, 2012, at 5:00 p.m. in the First Floor Conference Room in the City Hall Building.

### **Adjournment**

At 6:37 p.m., Ms. Shriner moved to adjourn the meeting. This motion was seconded by Vice-Chairman Cannady and carried unanimously on a 6-0 vote.